

**ANNUAL REPORT
OF THE
MENTAL HEALTH COMMISSION**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2003

INDIANA LEGISLATIVE COUNCIL

2003

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation directing the Commission to do the following:

- (1) Study and evaluate the funding system for managed care providers of mental health services.
- (2) Review and make specific recommendations regarding the provision of mental health services delivered by community managed care providers and state operated hospitals.
- (3) Review and make recommendations regarding any unmet need for publicly supported mental health services in any specific geographic area or throughout Indiana. In formulating these recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of managed care providers.
- (4) Review the results of the actuarial study which must be submitted by the division of mental health and addiction to the commission not later than thirty (30) days after completion of the actuarial study.
- (5) Make recommendations regarding the application of the actuarial study by the division of mental health and addiction to the determination of service needs, eligibility criteria, payment, and prioritization of service.
- (6) Monitor the implementation of managed care programs for all populations of the mentally ill that are eligible for care that is paid for in part or in whole by the state.

The Legislative Council assigned the following additional responsibility to the Commission:

Children's mental health services (SR 22).

II. INTRODUCTION AND REASONS FOR STUDY

The Legislative Council assigned the Commission to study children's mental health services. Senator Billie Breaux, author of SR 22, discussed with the Commission her concerns about the provision of mental health services to children in the criminal justice system.

III. SUMMARY OF WORK PROGRAM

The Commission met five times during the interim on August 11, September 8, October 6, October 16, and October 27. The Commission heard testimony on a variety of issues.

IV. SUMMARY OF TESTIMONY ON INTERACTION OF CHILDREN WITH THE CRIMINAL JUSTICE SYSTEM

[Note: For a summary of testimony concerning other matters considered by the Commission, see the minutes of the Commission on the General Assembly web site at [http://www.state.in.us/legislative/.](http://www.state.in.us/legislative/)]

(a) Senator Billie Breaux told the members that she had introduced SR 22 for the purpose of obtaining more information on issues surrounding children with mental health needs who have been placed in the criminal justice system.

(b) Mary Stewart, Director of Community Development, Midtown Community Mental Health Center, reported that good things are happening now in the area of mental health services for children. Indiana is a national leader. The state is on the brink of approval for a Medicaid waiver where the income of the child, and not the income of the parents, is the determining factor for the receipt of payment for services. On the negative side, there has been a significant reduction in services. The lack of funding is creating more challenges. Ms. Stewart discussed the disparity among Indiana counties as to the number of children with mental health problems who are in the correctional system and the services that are available to children and families when the children go home after incarceration. According to Ms. Stewart, children who return to their communities face a variety of problems including changes in their families, school issues, and continued interaction with other youth offenders. Ms. Stewart would like to see a system developed with a family-based model. Ms. Stewart said that she did not see overuse of Ritalin as a problem. Ms. Stewart said that she did not think that parents were having their children declared as CHINS to receive some mental health services in the correctional system just because services were not available from the mental health system.

(c) Mr. Scott Cleveland, General Counsel for the Mental Health Association of Indiana, provided testimony to the Commission concerning juveniles and mental health issues. Mr. Cleveland said that the decision whether or not to assess juveniles for mental health problems is left to the judges. Mr. Cleveland said that there were standardized tools available. During the discussion on pre-screening, Mr. Cleveland further stated that children with mental illness are four times as likely to have drug or alcohol problems. This makes early diagnosis and treatment very valuable. Showing affection and paying attention to children are important in the development of children. According to Mr. Cleveland, blended funding must be achieved to provide the proper services at the right time.

(d) Ms. Deborah Washburn, Children's Committee, NAMI, provided the Commission with information on NAMI's issues with mental health services for children who are in the criminal justice system. Ms. Washburn told the Commission that twenty percent of the children have mental health problems, but only one in five of those children actually receives services. She stated her belief that sometimes parents actually place their children in the criminal justice system as a means of receiving help.

(e) The Honorable Robert Freese, Judge, Hendricks County Superior Court One, reported to the Commission an instance where the Department of Correction filed for civil commitments for two

young men. Both were sexual offenders who had been at Plainfield for about three years. As they approached their 21st birthdays, the facility was seeking civil commitment. When asked what was different to precipitate the civil commitment now from when they were initially sent to Plainfield, Judge Freese was told that nothing was different. His concern is that they should have been receiving mental health treatment from the beginning of their commitment to Plainfield. If the first child had been tried as an adult, he would likely have been found incompetent to stand trial which, according to Judge Freese, is not an option for juveniles. Members also expressed concern that if all persons were appropriately diagnosed, the state would need to be sure that the appropriate mental health facilities are available in the state.

(f) Suzanne Clifford Director of Division of Mental Health and Addiction, Family and Social Services Administration, reported on children's services. Ms. Clifford told the Commission that there is a massive shortage of child psychiatrists. The Division is working with Indiana University to train and retain more child psychiatrists in Indiana. Early intervention and a team approach of "swarming" around families with services have proven effective. One of the challenges the Division faces as it develops more effective tools for identifying persons who need services is that there will be more people needing services from a system that is already strained. Ms. Clifford also mentioned the problems attached to the lack of procedures for juveniles who, if they were adults, would be determined to be incompetent to stand trial.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

At the October 27 meeting, the Commission considered the following drafts:

PD 3423 - Defines "psychiatric advance directives" and provides that a health care representative may act in accordance with a psychiatric advance directive. (Approved; Senator Lawson sponsor)

20041111.001/105 - Makes changes in the incompetent to stand trial law. (Approved; Senator Lawson sponsor)

PD 3434 - Requires school corporations to implement mental health and substance abuse screening for all children in grades 1, 4, and 10. (Referred to task force)

PD 3429 - Defines "mental health and substance abuse screening instrument" and requires mental health and substance abuse screening for all children in need of service (CHINS) at preliminary inquirers and detention hearings. (Referred to task force)

PD 3435 - Requires training for law enforcement and correctional personnel in interacting with persons with mental retardation, developmental disabilities, mental health issues, and addiction and requires that the Department of Correction give priority to diversion programs when making community correction grants. (This draft was approved by the Indiana Commission on Mental Retardation and Developmental Disabilities on October 21, 2003.) (Approved; Senator Lawson sponsor)

Senate Concurrent Resolution - Urges a joint meeting of the Commission on Mental Retardation and Developmental Disabilities and the Commission on Mental Health concerning interaction with the criminal justice system during the 2004 interim. (This draft was approved by the Indiana Commission on Mental Retardation and Developmental Disabilities on October 21, 2003.) (Approved; Senator Lawson sponsor)

PD 3440 - Provides for a fifty percent increase in the tax rate on beer, wine, and liquor and provides for the revenue generated from the increase to be deposited in the Forensic Mental Health and Addiction Treatment Fund. (Approved; no sponsor designated)

The Commission made the following recommendations:

(1) The Commission heard testimony on the issue of access to mental health medications in Medicaid and the Department of Corrections (DOC). The Commission has in previous years made recommendations for the passage of legislation to insure access to mental health medications in these two arenas. The Commission's work in the past has produced a number of pieces of legislation, including current law, which insures access to mental health medications in fee-for service Medicaid.

As Medicaid plans to move a greater number of disabled persons into managed care, the need for legislation to protect access to mental health medications in Medicaid managed care has become critical.

The Commission heard additional testimony from DOC on its formulary practices. As the Commission found in previous years, legislation is required to insure that individuals who have a mental illness and are incarcerated have access to the most appropriate mental health medication.

The Commission encourages and applauds the efforts currently underway among advocates, Medicaid, DOC, and other stakeholders to insure access to mental health medications.

(2) The Commission heard testimony on the passage of HEA 1233 in 2003 (substance abuse parity). The legislation was recommended to the Indiana General Assembly as a result of the work of the Commission. The bill was modified during the legislative session and passed to make the offering of substance abuse mandatory instead of mandating the benefit. The Commission reiterates its previous position that the Indiana General Assembly enact full substance abuse parity.

(3) The Commission heard testimony on diversion language that originated with a recommendation from the Commission and was subsequently modified and added to the budget bill in 2003. The Commission recommends that DOC fully implement diversion

programs as provided by the language in the budget bill in partnership with the Division of Mental Health and Addiction (DMHA).

(4) The Mental Health Commission has concerns about three issues that require further study. As a result, the Commission endorses the creation of three task forces to study the following areas of concern: forensics, commitment, and juvenile justice. Commission members will be invited to participate on any or all of the task forces. Staffing for the task forces will be provided by the Division of Mental Health and Addictions and the Mental Health Association in Indiana.

WITNESS LIST RELATED TO ASSIGNED TOPIC

The Honorable Billie Breaux, State Senator

Ms. Mary Stewart, Director of Community Development, Midtown Community Mental Health Center, Indianapolis

Mr. Scott Cleveland, General Counsel for the Mental Health Association of Indiana

Ms. Deborah Washburn, Children's Committee, National Alliance for the Mentally Ill

The Honorable Robert Freese, Judge, Hendricks County Superior Court One

Ms. Suzanne Clifford, Director of the Division of Mental Health and Addiction, Family and Social Services Administration